

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Document #

23

Allan Stern

U.S.C.A. # 07-4798-pr

-v-

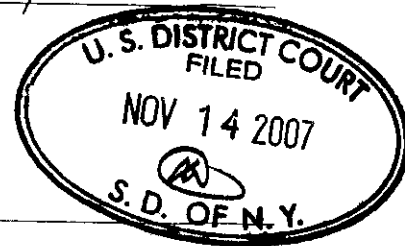
U.S.D.C. # 02 cv 2145

David Miller

JUDGE: Lynch

DATE: 11/14/07

INDEX TO THE RECORD ON APPEAL



PREPARED BY (NAME): Robert N. Isseks

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DISTRICT COURT DOCKET ENTRIES -----

DOCUMENT DESCRIPTION

DOC. #

CLERK'S CERTIFICATE

SEE ATTACHED LIST OF NUMBERED DOCUMENTS

(☒) Original Record

(☐) Supplemental Record

The record in the above entitled case was indexed to the U.S.C.A.
for the Second Circuit on the 14 Day of Nov, 2007.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Allan Stern

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-v-

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Clerk's Certificate

I, J. Michael McMahon, Clerk of the Court of the United States District Court for the Southern District of New York, do hereby certify that the certified copy of the docket entries and the original filed papers numbered 1 Through 22 inclusive, constitutes the Original record on appeal in the above entitled proceedings except for the following missing documents:

<u>Date Filed</u>	<u>Document Description</u>
<u>3/18/02</u>	<u>1- Petition</u>
<u>7/26/02</u>	<u>8- Revised Scheduling Order</u>
<u>10/17/02</u>	<u>11- Reply Affidavit</u>
<u>12/14/05</u>	<u>18- Reply Affidavit</u>
<u>10/16/07</u>	<u>21- Clerk's Judgment.</u>

In Testimony Whereof, I have caused the seal of said Court to be hereunto affixed, at the City of New York, this 14 Day of Nov. In this year of our Lord, Two Thousand and Seven, and the Independence of the United States this 232ND year.

J. Michael McMahon, Clerk

By 
Deputy Clerk

APPEAL, CLOSED

U.S. District Court
United States District Court for the Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:02-cv-02145-GEL
Internal Use Only

Stern v. Miller

Assigned to: Judge Gerard E. Lynch

Demand: \$0

Cause: 28:2254 Petition for Writ of Habeas Corpus (State)

Date Filed: 03/18/2002

Date Terminated: 10/16/2007

Jury Demand: None

Nature of Suit: 530 Habeas Corpus (General)

Jurisdiction: Federal Question

Date Filed	#	Docket Text
03/18/2002	1	PETITION for writ of habeas corpus pursuant to 28 USC 2254. FILING FEE \$ 150.00 RECEIPT # 421615. (gmo) (Entered: 03/20/2002)
03/18/2002		Magistrate Judge Andrew J. Peck is so designated. (gmo) (Entered: 03/20/2002)
03/27/2002	2	Order that the clerk shall serve a copy of this order and petition upon Attorney General State of NY/D.A. NY County and shall send a copy of this order by certified mail to petitioner. Answer due on 5/24/02 for Dave Miller (signed by Judge Gerard E. Lynch); sent copy of order and petition by certified mail to Atty Genl State of NY #7000 1530 0005 4709 8739 and to D.A. NY County #7000 1530 0005 4709 8746; and copy of order to petitioner #7000 1530 0005 4709 8753 (cd) (Entered: 04/01/2002)
05/23/2002	3	REVISED SCHEDULING ORDER: Respondent shall file an answer to the petition or other pleading in response thereto, along with the record on appeal, appellate briefs, and relevant trial and post conviction records and transcripts, no later than 6/24/02; The petitioner shall file reply papers, if any, no later than 7/24/02. The petition will be considered fully submitted as of that date. (signed by Judge Gerard E. Lynch); Copies mailed. (tp) (Entered: 05/28/2002)
06/05/2002	4	NOTICE of attorney appearance for Dave Miller by Donald J. Siewert. (kw) (Entered: 06/06/2002)
06/27/2002	5	REVISED SCHEDULING ORDER: the respondent shall file an answer to the petition or other pleading in response thereto, along with the record on appeal, appellate briefs, and relevant trial and post-conviction records and transcripts, no later than 7/19/02. The petitioner shall file reply papers, if any, no later than 8/19/02. The petition will be considered fully submitted as of that date. (signed by Judge Gerard E. Lynch); Copies mailed. (kw) (Entered: 07/01/2002)
07/26/2002	6	AFFIDAVIT of Donald J. Shewert by Dave Miller in opposition to [1-1] petition. (sb) (Entered: 07/30/2002)
07/26/2002	7	MEMORANDUM OF LAW by Dave Miller in support of Answer Opposing Petition for a Writ of Habeas Corpus. Four Volumes of Exhibits 1-32 attached. (sb) (Entered: 07/30/2002)
07/26/2002	8	REVISED SCHEDULING ORDER: the respondent shall file an answer to the petition or other pleading in response thereto, along with the record on appeal, appellate briefs, and relevant trial and post-conviction records and transcripts, no later than 7/26/02; the petitioner shall file reply papers, if any, no later than 8/26/02. The petition will be considered fully submitted as of that date. (signed by Judge Gerard E. Lynch); Copies mailed. (kw) (Entered: 07/30/2002)
07/26/2002		Deadline: answer to writ of habeas corpus due for 7/26/02 for Dave Miller. (kw) (Entered: 07/30/2002)
08/21/2002	9	STIPULATION; that the date by which the petitioner must submit his reply papers is hereby extended from 8/26/02 to 9/26/02. (signed by Judge Gerard E. Lynch) (pl) (Entered: 08/23/2002)
10/02/2002	10	STIPULATION and ORDER; that the date by which the petitioner must submit his reply papers is hereby extended from 9/26/02 to 10/26/02. (signed by Judge Gerard E. Lynch) (jco) Modified on 10/08/2002 (Entered: 10/07/2002)
10/17/2002	11	REPLY AFFIDAVIT of Allan Stern by Allan Stern in support of re: [1-1] petition for a writ of habeas corpus. (ac) (Entered: 10/21/2002)
08/08/2003	12	Memo-Endorsement on letter addressed to Judge Lynch from Robert N. Isseks, dated 7/21/03. counsel for petitioner requests that his pending habeas corpus proceedings be stayed in order to give him the opportunity to file a new state court challenge to his conviction pursuant to N.Y.S. Criminal Procedure Law 440.10. Application granted. (signed by Judge Gerard E. Lynch); (yv) (Entered: 08/11/2003)
06/21/2005	13	ORDER; Petitioner's submissions supplementing his original petition are to be submitted no later than 7/8/05; respondent's answer to those supplemental submissions is to be submitted no later than 7/29/05. The petition will be deemed fully submitted as of that date. (Signed by Judge Gerard E. Lynch on 6/13/05) (sac,) (Entered: 06/22/2005)
07/07/2005	20	SUPPLEMENTAL AFFIDAVIT of Allan Stern to Petition for Writ of Habeas Corpus. Document filed by Allan Stern. (ac) (Entered: 10/12/2007)
08/08/2005	14	ENDORSED LETTER addressed to Judge Gerard E. Lynch from Donald J. Siewert dated 7/27/05 re: I request an enlargement until 10/6 of respondent's to answer the supplemental memorandum in the instant case. (Signed by Judge Gerard E. Lynch on 7/29/05) (pl,) (Entered: 08/10/2005)

10/24/2005	15	ENDORSED LETTER addressed to Judge Gerard Lynch from Donald J. Siewert dated 10/5/2005 re: to request a second enlargement of three weeks and one day, until October 28, of respondent's time to answer. Dave Miller answer due 10/28/2005. ENDORSEMENT: Granted. There will be no further extensions. (Signed by Judge Gerard E. Lynch on 10/7/2005) (jmi,) (Entered: 10/25/2005)
10/28/2005	16	SUPPLEMENTAL MEMORANDUM OF LAW in Support of answer opposing petition for a writ of habeas corpus. Document filed by Dave Miller. (jmi,) (Entered: 10/31/2005)
12/08/2005	17	ENDORSED LETTER: addressed to Judge Gerard E. Lynch from Robert N. Isseks dated 11/28/2005 re: petitioner is requesting a three week extension to file his reply. ENDORSEMENT: Reply by 12/22/2005. So Ordered. (Signed by Judge Gerard E. Lynch on 12/1/2005) (lb,) (Entered: 12/08/2005)
12/14/2005	18	REPLY AFFIDAVIT of Allan Sten in Opposition re: [16] Memorandum of Law in Support. Document filed by Allan Stern. (jco) (Entered: 06/11/2007)
10/02/2007	19	OPINION AND ORDER # 95286: Because Stern's claims are without merit, his petition for a writ of habeas corpus is denied. As Stern has not made a substantial showing of a denial of a constitutional right, a certificate of appealability will not issue. SO ORDERED. (Signed by Judge Gerard E. Lynch on 10/1/2007) (jmi) Modified on 10/10/2007 (db). (Entered: 10/02/2007)
10/02/2007		Transmission to Judgments and Orders Clerk. Transmitted re: 19 Memorandum & Opinion, to the Judgments and Orders Clerk. (jmi) (Entered: 10/16/2007)
10/16/2007	21	CLERK'S JUDGMENT That for the reasons stated in the Court's Opinion and Order dated October 1, 2007, the petition for a writ of habeas corpus is denied; the Court finds that because petitioner has not made a substantial showing of the denial of a constitutional right, a certificate of appealability will not issue. (Signed by J. Michael McMahon, clerk on 10/16/07) (ml) (Entered: 10/16/2007)
10/24/2007	22	NOTICE OF APPEAL from 19 Memorandum & Opinion. Document filed by Allan Stern. Copies mailed to attorney(s) of record: District Attorney, NYC. (tp) (Entered: 10/26/2007)
10/24/2007		Appeal Remark as to [22] Notice of Appeal filed by Allan Stern. \$455.00 APPEAL FEE DUE. (tp) (Entered: 10/26/2007)
10/26/2007		Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: [22] Notice of Appeal. (tp) (Entered: 10/26/2007)
10/26/2007		Transmission of Notice of Appeal to the District Judge re: [22] Notice of Appeal. (tp) (Entered: 10/26/2007)